



Australian Government

Australian Taxation Office

Key ATO income tax work program priorities

Oil and Gas Sector

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What we are covering today...

- Finance
 - Related Party Finance
 - Thin Capitalisation
- Hubs
 - Marketing Hubs
 - What's next for the hubs PCG?
- Revenue/capital
 - Re-characterisation of expenditure
 - Capitalised labour
 - Exploration

Finance

Related party financing

- PCG 2017/4 is expected to be released in December 2017
- Key substantive changes proposed from the draft PCG:
 - separation of the risk indicator into two tables
 - changes to definitions and score weighting
- The focus of the PCG is to encourage willing and co-operative future compliance.
- Compliance activity
 - 11% of all related party debt (excluding ADIs) already transitioned into lower risk arrangements for future years – expect increase
 - 23% of additional debt subject to current compliance activity

Thin Capitalisation

Focus areas:

1. Asset valuations
 - Revaluation of mining rights
 - ATO to provide guidance to the market via a Tax Determination/Taxation Ruling and a Practical Compliance Guideline
 - Consultation Q1 2018

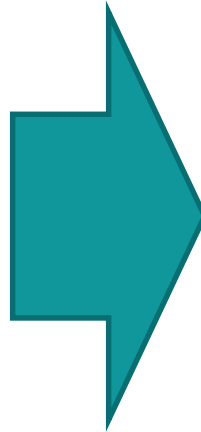
2. Arms Length Debt Test (“ALDT”)
 - Work currently undertaken to consider the approach adopted when evaluating the ALDT

Hubs

Marketing Hubs – treatment strategy

Historical approach

- Individual audits and litigation (correction)
- Tax Rulings, where issues turn on questions of law



Modern approach

- Use of Practical Compliance Guidelines (PCGs) and Agreed Upon Procedures (AUPs)
- Combining data analytics, industry information and expert knowledge seeking ‘horizontal equity’
- Lower the compliance burden for ‘low-risk’ taxpayers
- More targeted 1:1 inquiry or further engagement for other taxpayers
- Potential for forward agreements, but also strategic litigation
- Diverted profits tax

Marketing Hubs – What Should You Do?

- Voluntary disclosures – taxpayers have until January 2016 to take advantage of the concession
- Taxpayer's with year ending 31 Dec 2017 will shortly be able to self-assess their risk zone for this year
 - Certain taxpayers will be asked to report their risk zones in the RTP schedule
 - We will write to individual taxpayers requesting you to provide us with your risk rating
 - IDS disclosure changes
- Take steps to move to the white zone
 - You can proactively engage with us for your unique circumstances and reduce your risk rating
 - Engage with the ATO to reach forward agreement even if you are not already under review
- Outside the green zone - Have contemporaneous evidence to support your transfer pricing position

What's next for the hubs PCG?

Procurement hub schedule to PCG 2017/1

- The risk indicators are relevant to offshore procurement hubs supplying “non-core” goods or services
- Cost plus approach
- Consultation expected Q4 2017/Q1 2018

Shipping schedule to PCG 2017/1

- Draft guidance to assist taxpayers risk assess the outcomes of their shipping arrangements
- To be released for consultation Q1 2018
- Industry experts have been consulted to ensure draft guidance is consistent with industry practice, noting that shipping arrangements are complex with nuances varying across industry

Revenue/Capital

Revenue/Capital

Re-characterisation of expenditure from capital to revenue

- Large increase in amendments relating to re-characterisation of capital expenditure from fixed asset registers
- Concerns that these amendments only seem 'one way' therefore we are seeking to understand whether items on revenue account that should have been on capital account
- With a number of new projects nearing production in the Oil & Gas space, there will likely be more amendments as fixed asset registers are updated
- Technology solutions?

Revenue/Capital – Specific focus areas

Correct treatment and allocation of capitalised labour to capital assets

- Salary, wages and other labour costs actually paid or payable to persons employed in business are usually immediately deductible under section 8-1, **except when those costs are outgoings of capital, or of a capital nature.**
- Salaries and wages of employees involved in the construction of capital assets should be capitalised forming part of the Division 40 cost of the asset rather than being immediately deductible.
- Where employees are engaged in a mixture of maintenance and capital projects, costs would need to be allocated accordingly
- Characterisation of labour costs incurred by taxpayer on self-constructed assets is a question of fact and degree which requires consideration of a whole factual matrix of each particular case
- ATO considering need for public guidance

Revenue/Capital: Specific focus areas - continued

- **Exploration**

- Taxation Ruling 2017/1
- Practical Compliance Guideline 2017/16
- Agreed upon procedures currently being developed
 - Currently consulting with industry
 - Expect to be finalised Q1 2018

- **Division 40-80 – ‘First use’**

- Consultation with industry has occurred
- Expect to be published Q1 2018

Conclusion

- ATO is aiming to provide certainty and assurance on key income tax risks in the oil and gas sector
- Increased guidance being published on key areas impacting the sector
 - Forms the basis of our compliance approach to taxpayers
 - PCGs and other guidance products are able to be used by taxpayers to tell your story (both internally and externally)
- Get involved in consultation
 - APPEA
 - E&R Working Group